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ABSTRACT

This document was prepared to answer questions regarding the Pennsylvania Nonpublic Elementary and Secondary Education Act which became effective after June 19, 1968. Questions pertain to (1) the secular educational services that can be purchased under this law; (2) the specific areas of compensation such as salaries, textbooks, and instructional materials; (3) the method of finance; (4) quality control of education via teacher certification and measures of academic progress; (5) State regulation of nonpublic schools using this source of public funds; (6) nonpublic school teacher salaries; and (7) administrative questions concerning application deadline dates and instructional institutes for nonpublic school officials. (LN)

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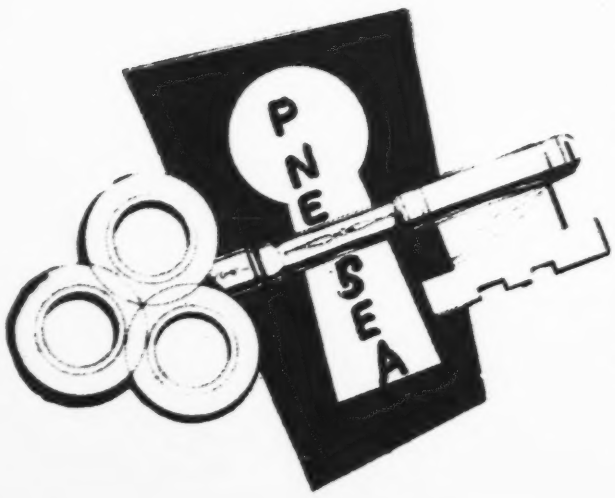

40 QUESTIONS AND ANSWERS

REGARDING ACT 109
THE PENNSYLVANIA NONPUBLIC
ELEMENTARY AND SECONDARY
EDUCATION ACT

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
OFFICE OF EDUCATION

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OFFICE FOR AID TO
NONPUBLIC EDUCATION

EA 002 598

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC INSTRUCTION
HARRISBURG, PENNSYLVANIA

JANUARY, 1969

QUESTIONS AND ANSWERS REGARDING ACT 109 THE PENNSYLVANIA NONPUBLIC ELEMENTARY AND SECONDARY EDUCATION ACT, SIGNED INTO LAW BY GOVERNOR SHAFER ON JUNE 19, 1968

1. What is Act 109?

   Act 109 is Legislation enacted by the 1968 General Assembly of the Commonwealth of Pennsylvania for the purpose of purchasing, by the Superintendent of Public Instruction, of secular educational services from nonpublic schools of the Commonwealth.

2. What are these secular educational services?

   Act 109 identifies educational services as courses in mathematics, modern foreign languages, physical science, and physical education.

3. What areas are compensable under the Act?

   Salaries, textbooks, and instructional materials in the four subjects cited earlier are compensable under the provisions of Act 109.

4. Which nonpublic schools are eligible for participation under the provisions of this Act?

   The Act maintains that any nonpublic school in the Commonwealth, which satisfies the Compulsory School Attendance Law, shall be eligible to participate under the provisions of this Act. Also, any nonpublic school, not exempt, shall be duly licensed by the State Board of Private Academic Schools.

5. Are proprietary or profit making institutions also eligible?

   Yes, the law says any nonpublic school.

6. Are nursery or kindergartens eligible to participate under this Act?

   No, the Act limits the purchase of educational services to the elementary and secondary levels only. In addition, such institutions must comply with the Compulsory School Attendance Law of the Commonwealth. Consequently, nurseries,

pre-kindergartens, kindergartens, post high schools or night school high schools are not eligible to participate under the provisions of the Act.

7. How about correspondence schools?

Definitely not, such institutions are not eligible and neither are business or trade schools.

8. Who executes the contract for the Commonwealth?

Act 109 mandates this power to the Superintendent of Public Instruction. He may, of course, delegate this responsibility to an authorized official whom he may designate.

9. Who is eligible to sign for the institution?

The chief administrative officer of an institution or any officer so authorized to execute contracts for a specific institution.

10. Shall institutions be eligible for 100% of costs in the four subject areas and the three categories where compensation is claimed?

No, after completion of the necessary documents, institutions will determine their reasonable cost in the four subjects through the three compensable areas. All institutions will then be totaled and monies available will be prorated among those eligible institutions which have declared their intent to participate under the provisions of the Act.

11. How much money can each insitution expect to receive?

Act 109 has set aside $4,300,000 for the purchase of secular educational services. The source of this money is the State Harness Racing Commission. It is difficult to ascertain at this time the amount of money per dollar expended, each institution is likely to receive in return.

12. Will an institution receive money on the per pupil basis?

No, available monies will be prorated to each institution in terms of costs, not on a per pupil basis.

13. Why not on a per pupil basis?

The law makes no provision for a per pupil claim for funds expended. It specifically stipulates that money must be prorated on costs identified by each participating institution in the four subjects and three compensable areas.

14. What is the source of funds for the administrative office designated for implementing the Act?

Administrative costs are provided for in the Act. The Office for Aid to Nonpublic Education is supported by this provision.

15. Will this Act be of specific help to denominational schools?

This Act is intended to help <u>all</u> nonpublic schools regardless of their religious or denominational affiliation.

16. Must the secular educational services be quality oriented?

Yes, the Superintendent is obligated to utilize instruments to assure that the education provided under the provisions of the Act be quality oriented. The administering of approved standardized tests to measure the satisfactory level of pupil performance is provided for in the context of the law.

17. How about textbooks -- may they be religiously oriented?

Textbooks may not be religiously oriented, but must retain the same degree of secularity as textbooks used in the public schools. Textbooks for which compensation is claimed may not contain an episcopal imprimatur or a "nihil obstat".

18. Will nonpublic schools, who elect to participate, be under the control of the Department of Public Instruction?

Definitely not, the only control which will be exercised in implementing the Act will be to insure that state monies expended in the purchase of secular educational services be properly spent and that participating institutions maintain separate budgets and be subject to audit by the Auditor General of the Commonwealth of Pennsylvania. The Department elects

to insure a proper, fair, equitable and just implementation of the Act, together with a proper expenditure of funds. The Department does not intend in any way to interfere with the normal administrative policies of participating institutions.

19. Will there be an approved list of textbooks?

The Department will maintain a "de facto" list of textbooks, as available to the public school system, and will review books used to insure their secularity. The Department will not promulgate a list of suggested books, but will deem to approve textbooks which satisfy the curricular needs of a specific institution.

20. How many nonpublic schools are there in the Commonwealth of Pennsylvania?

More than 1,500 nonpublic institutions are currently in operation in the Commonwealth. It is anticipated that perhaps 1,300 of those will elect to participate and it is estimated that among those electing to participate, approximately 50 will not be eligible under the provisions of the law as identified in the Rules and Regulations promulgated by the Superintendent of Public Instruction.

21. Must teachers in nonpublic schools be certificated?

The law recognizes this factor and indicates that for purposes of the Act, noncertificated teachers who have been on faculty rosters of nonpublic institutions on July 1, 1968, shall be deemed solely for the purposes of this Act to be certificated in order for an institution to be eligible for compensation under the Act. After five years, or beginning in September, 1974, all other teachers in nonpublic schools must be fully certificated under the standards set by the Department's Bureau of Teacher Certification and commensurate with certification required in the public schools.

22. Are certificates acquired in other states suitable for compensation under the Act?

Should a teacher be on a roster on July 1, 1968, he or she is deemed certificated solely for the purposes of this Act to teach in any nonpublic school. After five years, certification of all other teachers in compensable areas must conform with standards promulgated by the appropriate bureau in the Department of Public Instruction.

23. Are standardized tests mandatory?

Yes, the bill provides for the administering of standardized tests in nonpublic schools to measure the academic progress, and levels of pupil performance. The costs for such tests are compensable under the instructional materials phase of the Act.

24. Is discrimination permitted in the implementation of the Act?

While the context of the Act does not mention discrimination, in the implementation of the Act, the Department will resort to Article 7 of Executive Directive #21 which states:

> "Every State contract for public works or goods or services shall contain a provision barring discrimination on account of race, color, religious creed, ancestry, age, national origin or sex and such contractural provisions shall be fully and effectively enforced."

The recognition by a religiously or denominationally - affiliated nonpublic school, in its admission policy of the preference of parents of the same religion or denomination to enroll their children therein shall not be deemed to be "discrimination" within the meaning of Article 7; nor shall the practice of any nonpublic school in limiting its enrollment exclusively for pupils of one sex be deemed "discrimination" within the meaning of Article 7.

25. Is any provision made for permitting pupils to attend substandard structures and still make them eligible for compensation under the Act?

The Office for Aid to Nonpublic Education believes that all nonpublic schools in which instruction compensable under PNESEA is rendered shall meet all safety and sanitary requirements provided by standards promulgated by the Department of Labor and Industry.

26. Some people maintain that the Act will be a give-away.

The Office for Aid to Nonpublic Education will insure that all monies expended in the purchase of educational services from nonpublic schools will be earned. The law was not intended to be a windfall or a gratuity and the Office for Aid to Nonpublic Education will insure that the secular educational

services purchased will be quality oriented and add appreciably to the total educational pattern of the Commonwealth.

27. My son attends a nonpublic school in Maryland. Does the law provide for the purchase of secular educational services from the Maryland institution for this resident of Pennsylvania?

Positively not, the law is intended to purchase secular educational services for Commonwealth students attending Commonwealth institutions.

28. Must a supplier of instructional materials petition to be included on the approved list for the sale of instructional materials under the provisions of Act 109?

No, this office does not maintain and does not elect to maintain a list of approved suppliers of instructional materials. Any such transaction must be consummated between the institution and the individual supplier. This office will be interested, of course, in reviewing the purchase of materials to insure that they satisfy curricular needs. It will not be necessary, then, for suppliers to request to be included on the approved list, since no such list will be maintained.

29. After an institution has declared its intent to participate, does this mean that it is bound to participate if upon receipt of the additional materials, forms, Rules and Regulations and etc., an institution elects not to consummate a contract?

It is the prerogative of each institution to consummate a contract and if it should elect not to participate after receipt of all documents and following their declaration of intent to participate, an institution is not obligated to participate under the provisions of Act 109. However, if eligible, an institution may elect to participate in subsequent years by satisfying the specific requirements for participation.

30. What about certification of noncertificated teachers under Act 109?

The Act provides that any noncertificated teacher who possesses a contract to teach for 1968-69 and who is on the roster of such institution on July 1, 1968, shall be deemed

"solely for the purposes of this Act" to be qualified and certificated to teach in any nonpublic school in the Commonwealth. This has been identified as the "grandfather clause". Therefore, a teacher who is on the roster as of July 1, 1968, shall be deemed to be certificated and classes taught by such teacher shall be compensable even after the fifth year.

31. What happens after five years to noncertificated teachers?

The law provides that after five years, all teachers teaching compensable subjects under Act 109 must carry certification commensurate with the certification possessed by the teachers in the public schools. Teachers who have qualified under the "grandfather clause" may continue in such capacity even in another institution and subjects eligible for purchase and taught by such teachers shall be compensable under the Act.

32. Why was not English and/or reading and/or history included as a compensable subject under the Act?

The Office for Aid to Nonpublic Education is unable to ascertain why the above cited subjects were omitted for compensability under the Act. The compensable subjects were determined by the Legislators and it appears that their selections were made because of the importance of the subjects, together with the secularity with which such subjects may be taught.

33. Are instructional institutes planned for nonpublic school officials to enable them to competently complete required forms?

Yes, it is anticipated that five regional seminars in Philadelphia, Pittsburgh, Erie, Scranton and Harrisburg will be arranged sometime between January and April 15, to enable nonpublic school officials to properly prepare the required forms for participation under the provisions of Act 109. The Office for Aid to Nonpublic Education is contemplating on developing other sources of providing information - clarifying brochures, a master instructional tape and other audio visual materials which will be loaned to interested institutions which require further information. This question and answer series is also intended to clarify some questions posed to the Office for Aid to Nonpublic Education, since the effective date of the Act, July 1, 1968.

34. How are nonpublic school teachers' salaries to be determined?

Salaries claimed for repayment under the contract shall be actual salaries but not exceeding the minimum salaries maintained for public school teachers under the Public School Code of 1949, as amended or supplemented.

35. Are materials purchased for sustaining a varsity sport compensable?

No, materials purchased for sustaining a varsity sport program shall not be declared compensable under the instructional materials provisions of the Act.

36. Will the initial brochure developed by the Superintendent of Public Instruction for implementing Act 109 be revised?

The Superintendent of Public Instruction reserves the right to modify, alter, or change the Rules and Regulations as conditions warrant. In addition, he may prepare supplements to existing Rules and Regulations and cause such to be published.

37. Will the required forms be supplied by the Office for Aid to Nonpublic Education?

Yes, all forms required to implement Act 109 will be supplied in sufficient quantity to properly service participating institutions. Permission to reproduce official forms is also granted to institutions which may require additional copies.

38. What are the form numbers, titles and submission dates of the various forms required under Act 109?

The following forms, together with titles and submission dates have been developed to implement Act 109.

FORM NO.	TITLE	SUBMISSION DATES
PINPE 1	Nonpublic School Registry and Statistics	Jan. 15, 1969*
PINPE 2	Agreement, Schedule A (Contract)	Jan. 15, 1969*
PINPE 3	Application for Nonpublic School Aid	June 15, 1969*
PINPE 4	Salaries Expenditure List	June 15, 1969*
PINPE 5	Textbook List	June 15, 1969*
PINPE 6	Instructional Materials List	June 15, 1969*
PINPE 7	Roster of Nonpublic School Teachers	Jan. 15, 1969*

* Add one year for comparable action in subsequent years

39. When may the first payment for secular educational services be anticipated by participating institutions?

The law provides that the first quarterly payment shall be sent to participating and eligible institutions with which contracts have been consummated on September 1, 1969. Such payment will be based on the secular educational services rendered for the 1968-69 school year. Additional quarterly payments will be mailed to participating institutions on December 1, March 1 and June 1.

40. When is the final date for the submission of an application, together with supplemental documents?

To properly implement the Act, the contractor's substantial adherence to an established deadline date is imperative. Failure of compliance within a reasonable time, where due notice has been given, may be deemed grounds for cancellation. The final date for the submission of applications for compensation under the Act is June 15, 1969 and for comparable action in subsequent years one year must be added.